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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,120	03/26/2004	Tsutomu Yoshitake	NECG 21.093 (100806-00258)	6565
26304	7590	07/11/2006	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP			THOMAS, ERIC W	
575 MADISON AVENUE			ART UNIT	PAPER NUMBER
NEW YORK, NY 10022-2585			2831	

DATE MAILED: 07/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/815,120	<b>Applicant(s)</b> YOSHITAKE ET AL.	
	<b>Examiner</b> Eric Thomas	<b>Art Unit</b> 2831	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-4, 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2000-510999 ('999) in view of Sumio et al. (JP 2001064004).

Regarding claims 1 and 8, '999 discloses polarizing electrodes (4a, 4b, see fig. 1) composed on a carbon composite (graphite nanofibers), wherein as a carbon material of said carbon composite a single layer of carbon material.

'999 discloses the claimed invention except for the carbon material is a single layer carbon nanohorn that is aggregated spherically.

Sumio et al. teach the use of a novel graphite material that is used in electric capacitors wherein the carbon material is a single layer carbon nanohorn aggregate, which is made in such a manner that the single layer carbon nanohorns are aggregated spherically.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the electrodes of '999 using the carbon material of Sumio et al. (\*a single carbon nanohorn aggregate which is made in such a manner that the single layer carbon nanohorns are aggregated spherically), since such a modification would form a graphite layer having large surface area, high stability to chemicals, easily forms into a thin film, high thermal stability and mechanical strength.

Regarding claim 2, Sumio et al. teach that the single-layer carbon nanohorn is a single layer graphite nanohorn.

Regarding claim 3, the modified '999 disclose the single layer carbon nanohorn aggregate is supported by a carbon fiber.

Regarding claim 4, the modified '999 disclose by allowing a front end of the single-layer carbon nanohorn comprising the single layer carbon nanohorn aggregate to be fused to the carbon fiber, the single layer carbon nanohorn aggregate is supported by the carbon fiber.

Regarding claim 7, '999 disclose an electric double layer capacitor comprising a polarizing electrode (fig. 1 - 4A), wherein said polarizing electrode is composed of a carbon composite.

'999 discloses the claimed invention except for the carbon material is a single layer carbon nanohorn that is aggregated spherically.

Sumio et al. teach the use of a novel graphite material that is used in electric capacitors wherein the carbon material is a single layer carbon nanohorn aggregate, which is made in such a manner that the single layer carbon nanohorns are aggregated spherically.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to form the electrodes of '999 using the carbon material of Sumio et al. (\*a single carbon nanohorn aggregate which is made in such a manner that the single layer carbon nanohorns are aggregated spherically), since such a modification would form a graphite layer having large surface area, high stability to chemicals, easily forms into a thin film, high thermal stability and mechanical strength.

### ***Double Patenting***

4. Applicant is advised that should claim 1 be found allowable, claim 8 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-4, 7-8 have been considered but are moot in view of the new ground(s) of rejection.

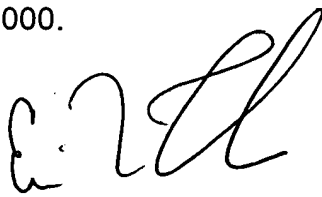
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Thomas whose telephone number is 571-272-1985. The examiner can normally be reached on Monday - Friday 6:30 AM - 3:45 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-1984. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ewt

 7-5-06  
**ERIC W. THOMAS**  
**PRIMARY EXAMINER**